

In re ) Fair Hearing No. 10,989  
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Appeal of )

The petitioner appeals the decision by the Department of Social Welfare terminating her Medicaid benefits. The issue is whether the petitioner's income is in excess of the program maximum.

The facts are not in dispute. Prior to January, 1992, the petitioner, who is disabled, received Medicaid based on her income of Social Security disability benefits (O.A.S.D.I.) and private disability insurance. Her combined monthly income from these two sources was well below the Medicaid program "protected income level" for a household of one person--\$700.00.<sup>1</sup>

In January, 1992, the petitioner received a small increase in her O.A.S.D.I. and also began receiving Social Security Widow's Disability benefits in an amount of \$377.00 a month. This brought her gross unearned income to \$858.00 a month. After applying all available deductions, (\$20.00) the Department determined the petitioner's net income to be \$838.00 a month.<sup>2</sup>

Under the regulations, when net monthly income exceeds the protected income level, the difference in monthly income is multiplied by six to determine the recipient's "applied income" over a six-month period of eligibility. In the petitioner's case, her applied income for the period February 1, 1992 to July 31, 1992 was determined to be \$832.80 ( $838.80 - \$700.00 \times 6$ ). From this amount the Department determined that the petitioner was entitled to a further deduction of \$190.00, the amount of her Social Security Medicare "premium"--leaving her with an applied income of \$642.00.<sup>3</sup>

The petitioner takes no issue with the Department's calculations or the information upon which they are based. Unfortunately, her monthly expenses exceed her income, leaving her unable to afford the medications and other medical services she must incur before her applied income level is met.<sup>4</sup>

#### ORDER

The Department's decision is affirmed.

#### REASONS

The Department's determination in this matter is fully in accord with the facts and the regulations regarding Medicaid eligibility. See supra. Unfortunately, the board lacks the legal authority to make exceptions to these regulations based on need or extenuating circumstances. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19. Therefore,

the Department's decision in this matter must be affirmed.

FOOTNOTES

<sup>1</sup>See Medicaid Manual § M 240.

<sup>2</sup>The petitioner is only eligible for the \$20.00 "standard deduction". See Medicaid Manual § M 243.1.

<sup>3</sup>See Medicaid Manual § M 402. Under the regulations, "applied income" is the "spenddown amount" the petitioner must incur (not spend) in medical expenses within a six-month period before she becomes eligible for Medicaid for all her medical expenses in excess of this amount during the same six-month period. The applied income figure is analogous to a "deductible" under a private insurance plan.

<sup>4</sup>The petitioner was advised to apply for general assistance if, at any time, her inability to purchase medical care constitutes an "emergency". See W.A.M. § 2602(d).

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